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9
10 **Attorneys for Defendant**
11 **STEVE WILLIAMS**

12
13 UNITED STATES DISTRICT COURT

14 DISTRICT OF NEVADA

15 LARRY BARBER,
16 Plaintiff,
17 vs.
18 OFFICER STEVE WILLIAMS;
19 Defendant.

20 Case No.: 2-13-cv-00538-GMN-CWH

21 **STEVE WILLIAMS' THIRD MOTION
22 TO CONTINUE STAY OF DISCOVERY
23 PENDING OUTCOME OF CRIMINAL
24 INVESTIGATION**

25
26 Defendant, STEVE WILLIAMS, by and through his attorneys, Kaempfer Crowell,
27 hereby moves to continue the stay of discovery pending the outcome of the criminal matters.
28 This Motion is made and based upon the Points and Authorities attached hereto, the papers and
29 pleadings on file herein, and any arguments of counsel as may be heard by this Court pursuant to
30 LR 78-2.

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AFFIDAVIT OF LYSSA S. ANDERSON
IN SUPPORT OF MOTION FOR STAY

3 1. I am duly licensed to practice law in the State of Nevada and before this Court. I
4 am counsel of record for Defendant, Steve Williams (“Officer Williams”).

5 2. This Affidavit is made of my own personal knowledge, except for those matters
6 stated upon information and belief, and, as to those, I believe them to be true. I am competent to
7 testify in a court of law to the matters included herein and if called upon will so testify.

8 3. This Affidavit is made in support of Steve Williams’ Third Motion to Continue
9 Stay of Discovery Pending Outcome of Criminal Investigation.

10 4. On September 10, 2013, Plaintiff Larry Barber (“Barber”) filed his Complaint.

11 5. Barber’s Complaint alleges that on January 31, 2012, Officer Williams used lethal
12 force against him.

13 6. Upon information and belief, it is the policy of the Clark County District Attorney
14 (“DA”) to review the actions of Officer Williams (the shooting of Barber) to determine if
15 Williams is criminally culpable for the events of January 31, 2012 and to publish a Report on
16 Use of Force (hereinafter referred to as the “DA’s Report”).

17 7. Upon information and belief, after the DA has reviewed the investigation
18 surrounding the shooting, the DA will either pursue criminal charges against Officer Williams
19 via a grand jury proceeding or issue a finding that the actions of Officer Williams were not
20 criminal, and then publish the DA’s Report.

21 8. As of the date of filing this Motion, the DA’s Report has not been published.

22 9. As set out in the prior pleadings filed with this Court, as a result of the incident on
23 January 31, 2012, Barber has been criminally charged with Attempted Murder With a Deadly
24 Weapon; Resist Public Officer – Weapon; Carrying a Concealed Weapon; and Assault With a

1 Deadly Weapon, in the Eighth Judicial District Court, Case Number C283230 (the "Criminal
 2 Proceedings"). (See **Exhibit A**, Case No. C283230 Docket Sheet attached hereto).

3 10. Trial in the Criminal Proceedings has been previously set several times, with the
 4 last setting being March 9, 2015. From a review of the Court Docket, the Trial did not proceed
 5 on March 9, 2015.

6 11. As both of these criminal matters are ongoing, very little information has been
 7 made available to any party in the case and, to date, I do not have access to the investigative
 8 reports, party statements, witness statements or any other evidence related to the incident of
 9 January 31, 2012.

10 12. As no information/documents could be made available due to the ongoing
 11 criminal matters, on March 4, 2014, Officer Williams filed a Motion to Stay Discovery Pending
 12 Outcome of Criminal Investigation, [Docket No. 35], which this Court granted on March 14,
 13 2014. [Docket No. 41].

14 13. On August 7, 2014, Williams filed a Motion to Continue Stay of Discovery
 15 Pending Outcome of Criminal Investigation as there had been no progress in either of the matters
 16 and the trial in the Criminal Proceedings had been continued. [Docket No. 51].

17 14. On August 8, 2014, this Court extended the stay until November 6, 2014.
 18 [Docket No. 52].

19 15. On October 27, 2014, prior to expiration of the stay, Williams filed his second
 20 Motion to Continue Stay of Discovery. [Docket No. 57]. The second Motion explained that the
 21 Trial in the Criminal Proceedings was not set until March 9, 2015 and therefore a continued stay
 22 was necessary.

23 16. This Court continued the stay until March 16, 2015 and required the parties to file
 24 interim status reports on March 2, 2015. [Docket No. 58].

1 17. On February 27, 2015 Plaintiff filed his status report, [Docket No. 59], and on
2 March 2, 2015 Williams filed his status report, [Docket No. 60]. Both status reports advised the
3 Court that a Calendar Call in the Criminal Proceedings was set for March 5, 2015 and that it was
4 likely the Trial in the Criminal Proceedings would again be continued. As a result, this Court
5 requested the parties to file additional status reports on March 6, 2015. [Docket 61].

6 18. As the Court directed, on March 6, 2015 the parties filed additional status report
7 advising the Court that the Trial in the Criminal Proceedings was again continued to July 20,
8 2015. [Docket Nos. 62 and 63].

9 19. In addition, the DA's Report has not been published as of the date of filing this
10 instant Motion.

11 20. Because the DA's Report has not been published and the Criminal Proceedings
12 are ongoing, Officer Williams respectfully requests that this Court enter an order continuing the
13 stay of discovery in Barber's civil rights case.

14 21. At this time, a continued stay of discovery in this matter is necessary as I will not
15 have access to any of the pertinent documents to the incident until the Criminal Proceedings are
16 complete.

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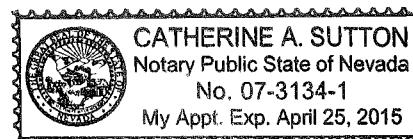
1 22. This request to extend the stay is sought in the good faith belief that it is necessary
2 to protect the rights of the parties, the investigation of the DA, and the search for truth and not
3 for any improper purpose or to cause unnecessary delay. *10/2*

4 DATED this 10 day of March, 2015.

LYSSA S. ANDERSON

7 SUBSCRIBED AND SWEARN to before
me this 16th day of March, 2015.

10 NOTARY PUBLIC in and for said
11 County and State



1
MEMORANDUM OF POINTS & AUTHORITIES

2
I. ARGUMENT

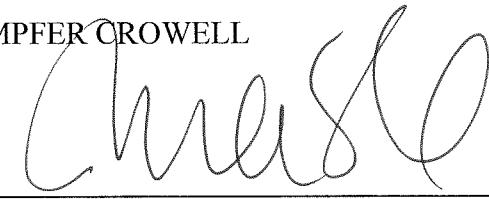
3 In the interest of brevity, Officer Williams incorporates by reference the legal authority in
4 the initial Motion for Stay of Discovery, [Docket No. 35], the Motion to Continue Stay [Docket
5 No. 51], and the second Motion to Continue Stay [Docket No. 57], as if fully set forth herein.

6
II. CONCLUSION

7 Based on the foregoing, Officer Williams respectfully requests a continued stay of
8 discovery in the present matter.

9 DATED this 16th day of March, 2015.

10 KAEMPFER CROWELL

11 BY: 

12 LYSSA S. ANDERSON

13 (Nevada Bar No. 5781)

14 8345 West Sunset Road, Suite 250

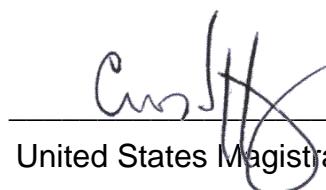
15 Las Vegas, Nevada 89113

16 **Attorneys for Defendant Steve Williams**

17
ORDER

18 It is so ordered.

19 DATED: March 16, 2015

20

United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **STEVE WILLIAMS' THIRD MOTION TO CONTINUE STAY OF DISCOVERY PENDING OUTCOME OF CRIMINAL INVESTIGATION** was made this date by depositing a true copy of the same for mailing at Clark County, Nevada, addressed to each of the following:

Larry Barber
Prisoner Number 87105
PO Box 650
Indian Springs, NV 89070

DATED this 16th day of March, 2015.

Becky Hildebrand

an employee of Kaempfer Crowell

EXHIBIT A

Skip to Main Content Logout My Account Search Menu New District Civil/Criminal Search Refine Search Back Location : District Court Civil/Criminal Help

REGISTER OF ACTIONS

CASE No. C-12-283230-1

State of Nevada vs Larry Barber

Case Type: **Felony/Gross Misdemeanor**
Date Filed: **08/03/2012**
Location: **Department 15**
Cross-Reference Case Number: **C283230**
Defendant's Scope ID #: **1118123**
Lower Court Case # Root: **12F01886**
Lower Court Case Number: **12F01886X**

PARTY INFORMATION

Defendant Barber, Larry J.

Lead Attorneys
Susan K. Bush
Court Appointed
702-868-4411(W)

Plaintiff **State of Nevada**

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Barber, Larry J
1. ATT. MURDER WITH A DEADLY WEAPON
2. RESIST PUBLIC OFFICER-WEAPON
3. CARRYING A CONCEALED WEAPON
4. ASSAULT WITH A DEADLY WEAPON

Statute	Level	Date
200.030	Felony	01/31/2012
199.280	Felony	01/31/2012
202.350	Felony	01/31/2012
200.471	Felony	01/31/2012

EVENTS & ORDERS OF THE COURT

DISPOSITIONS	
08/08/2012	Plea (Judicial Officer: Silver, Abbi)
	1. ATT. MURDER WITH A DEADLY WEAPON Not Guilty
	2. RESIST PUBLIC OFFICER-WEAPON Not Guilty
	3. CARRYING A CONCEALED WEAPON Not Guilty
	4. ASSAULT WITH A DEADLY WEAPON Not Guilty

11/08/2012 **Amended Plea** (Judicial Officer: Silver, Abbi) Reason: Plea Withdrawn
2. RESIST PUBLIC OFFICER-WEAPON
Guilty
3. CARRYING A CONCEALED WEAPON
Guilty
4. ASSAULT WITH A DEADLY WEAPON
Guilty

OTHER EVENTS AND HEARINGS

08/02/2012	No Bail Set
08/03/2012	Criminal Bindover
08/06/2012	Information <i>Information</i>
08/08/2012	Initial Arraignment (1:30 PM) (Judicial Officer De La Garza, Melisa) <i>Binding Present</i>

Minutes
Result: Plea Entered
09/05/2012 Transcript of Proceedings

Reporter's Transcript Of Preliminary Hearing Taken On

11/08/2012 | **Calendar Call (9:00 AM) (Judicial Officer Silver, Abbi)**

Parties Present

Minutes

Result: Plea Entered

11/08/2012 **Guilty Plea Agreement**

11/13/2012 CANCELED - Jury Trial

11/18/2012 CANCELED - Vacated - per Judge

12/11/2012 | Motion

Motion To Withdraw Counsel

12/11/2012 Motion Motion

MOTION FOR PRODUCTION OF DOCUMENTS, PAPERS, Pleadings And Tangible Property Of Defendant

12/14/2012	Motion <i>Motion To Withdraw Plea</i>
01/03/2013	Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer Silver, Abbi) <i>Motion To Withdraw Counsel</i>
	Result: Off Calendar
01/03/2013	Motion (9:00 AM) (Judicial Officer Silver, Abbi) <i>Motion For Production Of Documents, Papers, Pleadings And Tangible Property Of Defendant</i>
	Result: Off Calendar
01/03/2013	Motion to Withdraw Plea (9:00 AM) (Judicial Officer Silver, Abbi) <i>Motion To Withdraw Plea</i>
	Result: Hearing Set
01/03/2013	All Pending Motions (9:00 AM) (Judicial Officer Silver, Abbi) <i>Motion To Withdraw Counsel, Motion For Production Of Documents, Papers, Pleadings And Tangible Property Of Defendant and Dft's Pro Se Motion to Withdraw Plea</i> <u>Minutes</u>
	Result: Hearing Set
01/03/2013	Order <i>Order For Production of Inmate Larry Jevon Barber, BAC #87105</i>
01/04/2013	PSI
01/07/2013	Ex Parte Order <i>Ex Parte Order for Transcript</i>
01/10/2013	Sentencing (9:00 AM) (Judicial Officer Silver, Abbi) <i>SENTENCING & DISMISS COUNT 1</i>
	Result: Off Calendar
01/10/2013	Status Check (9:00 AM) (Judicial Officer Silver, Abbi) <i>01/10/2013, 01/15/2013, 05/09/2013</i> <i>Status Check: Withdrawal of Plea</i> <u>Parties Present</u> <u>Minutes</u>
	Result: Continued
01/10/2013	All Pending Motions (9:00 AM) (Judicial Officer Silver, Abbi) <i>Status Check: Withdrawal of Plea and Sentencing - Dismiss Count 1</i> <u>Parties Present</u> <u>Minutes</u>
	Result: Continued
01/15/2013	Confirmation of Counsel (9:00 AM) (Judicial Officer Silver, Abbi) <i>Confirmation of Counsel (Christensen)</i>
	Result: Granted
01/15/2013	All Pending Motions (9:00 AM) (Judicial Officer Silver, Abbi) <i>Status Check: Withdrawal of Plea and Confirmation of Counsel (Christensen)</i> <u>Parties Present</u> <u>Minutes</u>
	Result: Briefing Schedule Set
01/16/2013	Media Request and Order <i>Media Request and Order Allowing Camera Access to Court Proceedings</i>
01/31/2013	Reporters Transcript <i>Reporter's Transcript of Guilty Plea 11/8/12</i>
03/19/2013	Motion <i>Motion To Withdraw Guilty Plea Agreement</i>
03/22/2013	Receipt of Copy <i>Receipt of Copy</i>
04/02/2013	Motion to Withdraw Plea (9:00 AM) (Judicial Officer Silver, Abbi) <i>Motion To Withdraw Guilty Plea Agreement</i> <u>Minutes</u>
	Result: Off Calendar
04/22/2013	Opposition <i>State's Opposition to Motion to Withdraw Guilty Plea</i>
10/22/2013	Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses</i>
10/22/2013	Notice of Witnesses and/or Expert Witnesses <i>Notice of Expert Witnesses</i>
10/28/2013	Motion <i>Motion to Produce Evidence Including Potentially Exculpatory Evidence</i>
10/30/2013	Receipt of Copy <i>Receipt of Copy</i>
11/07/2013	Motion to Produce (9:00 AM) (Judicial Officer Silver, Abbi) <i>11/07/2013, 11/14/2013, 01/14/2014</i> <i>Motion to Produce Evidence Including Potentially Exculpatory Evidence</i> <u>Parties Present</u> <u>Minutes</u>
	Result: Continued
11/14/2013	Calendar Call (9:00 AM) (Judicial Officer Becker, Nancy)
	Result: Trial Date Set
11/14/2013	All Pending Motions (9:00 AM) (Judicial Officer Becker, Nancy) <u>Parties Present</u> <u>Minutes</u>
	Result: Trial Date Set
11/14/2013	Opposition

11/18/2013	<i>State's Opposition to Defendant's Motion to Produce Evidence Including Potentially Exculpatory Evidence</i> CANCELED Jury Trial (10:00 AM) (Judicial Officer Silver, Abbi) <i>Vacated - per Judge</i>
01/09/2014	Status Check (9:00 AM) (Judicial Officer Silver, Abbi) <i>Motion to Produce Evidence Including Potentially Exculpatory Evidence</i> <u>Parties Present</u> <u>Minutes</u> Result: Matter Heard
06/06/2014	Motion <i>Motion to Withdraw Counsel</i>
06/06/2014	Notice of Motion <i>Notice of Motion</i>
07/08/2014	Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer Silver, Abbi) <i>07/08/2014, 07/24/2014</i> <u>Parties Present</u> <u>Minutes</u> <i>07/01/2014 Reset by Court to 07/08/2014</i>
07/11/2014	Result: Continued Order for Production of Inmate <i>Order for Production of Inmate Larry Jevon Barber, Bac#87105</i>
07/24/2014	Calendar Call (9:00 AM) (Judicial Officer Silver, Abbi) Result: Vacated and Reset
07/24/2014	All Pending Motions (9:00 AM) (Judicial Officer Silver, Abbi) <i>Calendar Call and Dft's Pro Se Motion to Withdraw Counsel</i> <u>Parties Present</u> <u>Minutes</u> Result: Trial Date Set
07/28/2014	CANCELED Jury Trial (9:00 AM) (Judicial Officer Silver, Abbi) <i>Vacated - per Judge</i>
01/12/2015	Motion <i>Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant</i>
01/12/2015	Notice of Motion <i>Notice of Motion</i>
01/12/2015	Motion <i>Motion to Withdraw Counsel</i>
01/12/2015	Notice of Motion <i>Notice of Motion</i>
02/03/2015	Motion (9:00 AM) (Judicial Officer Barker, David) <i>02/03/2015, 02/10/2015</i> <i>Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant</i>
02/03/2015	Result: Continued Motion (9:00 AM) (Judicial Officer Barker, David) <i>02/03/2015, 02/10/2015</i> <i>Motion to Withdraw Counsel</i>
02/03/2015	Result: Continued All Pending Motions (9:00 AM) (Judicial Officer Barker, David) <i>Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant and Motion to Withdraw Counsel</i> <u>Parties Present</u> <u>Minutes</u>
02/10/2015	Result: Continued All Pending Motions (9:00 AM) (Judicial Officer Bonaventure, Joseph T.) <i>Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant and Motion to Withdraw Counsel</i> <u>Parties Present</u> <u>Minutes</u>
03/05/2015	Result: Decision Made Calendar Call (9:00 AM) (Judicial Officer Bonaventure, Joseph T.) <u>Parties Present</u> <u>Minutes</u>
03/09/2015	Result: Trial Date Set CANCELED Jury Trial (9:00 AM) (Judicial Officer Silver, Abbi) <i>Vacated - per Judge</i>
07/16/2015	Calendar Call (9:00 AM) (Judicial Officer Silver, Abbi)
07/20/2015	Jury Trial (9:00 AM) (Judicial Officer Silver, Abbi)

FINANCIAL INFORMATION

Defendant Barber, Larry J			
Total Financial Assessment			175.50
Total Payments and Credits			175.50
Balance Due as of 03/16/2015			0.00
11/07/2013	Transaction Assessment		50.50
11/07/2013	Payment (Window)	Receipt # 2013-135337-CCCLK	(50.50)
11/07/2013	Transaction Assessment		125.00
11/07/2013	Payment (Window)	Receipt # 2013-135343-CCCLK	(125.00)